



Commonwealth of Massachusetts State Ethics Commission

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SUFFOLK, ss.

COMMISSION ADJUDICATORY
DOCKET NO. 678

IN THE MATTER
OF
JOHN SAWYER

DISPOSITION AGREEMENT

The State Ethics Commission and John Sawyer enter into this Disposition Agreement pursuant to Section 5 of the Commission's *Enforcement Procedures*. This Agreement constitutes a consented to final order enforceable in the Superior Court, pursuant to G.L. c. 268B, §4(j).

On October 23, 2002, the Commission initiated, pursuant to G.L. c. 268B, § 4(a), a preliminary inquiry into possible violations of the conflict of interest law, G.L. c. 268A, by Sawyer. The Commission has concluded its inquiry and, on February 5, 2003, found reasonable cause to believe that Sawyer violated G.L. c. 268A, § 19.

The Commission and Sawyer now agree to the following findings of fact and conclusions of law:

-Findings of Fact-

1. Sawyer was Gloucester's full-time electrical inspector between July 1988 and July 2000. After stepping down as Gloucester's full-time electrical inspector in July 2000, Sawyer served as the part-time assistant electrical inspector until June 2002.
2. When electrical work is to be performed in Gloucester, the inspector conducts two inspections: a preliminary inspection and a final inspection.
3. Sawyer's brother, Joseph Sawyer, is a licensed electrician. He performs electrical work in Gloucester and neighboring communities.
4. John Sawyer inspected his brother's electrical work numerous times between January 1999 and February 2001. Sawyer conducted most of those inspections when he was the electrical inspector, and a few as the part-time assistant inspector.
5. In each case, Sawyer determined whether his brother's work complied with the Massachusetts electric code.

6. The Commission is aware of no evidence indicating that any of the work performed by Joseph Sawyer and inspected by John Sawyer did not comply with the electric code.

-Conclusions of Law-

7. Section 19 of G.L. c. 268A prohibits municipal employees from participating personally and substantially in their official capacity in particular matters in which, to their knowledge, they or a member of their immediate family have a financial interest.

8. Sawyer was and is a municipal employee, as that term is defined in G.L. c. 268A, § 1.

9. The electrical inspections of Joseph Sawyer's work were determinations, and therefore particular matters.¹

10. Sawyer participated² in those particular matters by performing the inspections.

11. Joseph Sawyer is John Sawyer's brother, and therefore an immediate family member.³

12. Joseph Sawyer had a financial interest in John Sawyer's inspections, of which John Sawyer had knowledge when he performed the inspections. Had John Sawyer determined that his brother's work did not comply with the electric code, Joseph Sawyer would have had to bring the work into compliance at his own expense.

13. Therefore, by performing inspections of his brother's electrical work, Sawyer participated as a municipal employee in particular matters in which to his knowledge an immediate family member had a financial interest. Each time he did so, Sawyer violated § 19.

-Resolution-

In view of the foregoing violations of G.L. c. 268A by Sawyer, the Commission

¹ "Particular matter" means any judicial or other proceeding, application, submission, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, decision, determination, finding, but excluding enactment of general legislation by the general court and petitions of cities, towns, counties and districts for special laws related to their governmental organizations, powers, duties, finances and property. G.L. c. 268A, §1(k).

² "Participate," participate in agency action or in a particular matter personally and substantially as a state, county or municipal employee, through approval, disapproval, decision, recommendation, the rendering of advice, investigation or otherwise. G.L. c. 268A, §1(j).

³ "Immediate family" means the employee and his spouse, and their parents, children, brothers and sisters.

has determined that the public interest would be served by the disposition of this matter without further enforcement proceedings, on the basis of the following terms and conditions agreed to by Sawyer:

- (1) that Sawyer pay to the Commission the sum of \$2,000 as a civil penalty for violating G. L. c. 268A § 19; and
- (2) that Sawyer waive all rights to contest the findings of fact, conclusions of law and terms and conditions contained in this Agreement in this or any other related administrative or judicial proceedings to which the Commission is or may be a party.

DATE: March 20, 2003